

# VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

## CHAPTER 63

*An Act to amend and reenact §§ 6.1-245, 6.1-254, and 6.1-256.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 6.1-258.1, relating to the Consumer Finance Act; licensure of lenders.*

[H 1777]

Approved March 20, 2005

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 6.1-245, 6.1-254, and 6.1-256.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 6.1-258.1 as follows:**

§ 6.1-245. Definitions.

As used in this chapter, unless a different meaning or construction is clearly required by the context:

*"Commissioner" means the Commissioner of the Bureau of Financial Institutions of the State Corporation Commission.*

(1) ~~"Person" includes individuals, copartnerships, associations, trusts, corporations, and all other legal and commercial entities;~~

(2) *"License" means a single license issued hereunder with respect to a single place of business;*

(3) *"Licensee" means a person to whom one or more licenses have been issued; and.*

(4) ~~"Commissioner" means the Commissioner of Financial Institutions as defined by the law as of the particular time.~~

*"Person" means any individual, firm, corporation, limited liability company, partnership, association, trust, or legal or commercial entity, or group of individuals however organized.*

*"Principal" means any person who, directly or indirectly, owns or controls (i) 10 percent or more of the outstanding stock of a stock corporation or (ii) a 10 percent or greater interest in a person.*

§ 6.1-254. Application for license; fee.

Application for a license to make loans under this chapter shall be in writing, under oath, and in the form prescribed by the Commission, and shall contain: (1) the name, ~~residence and business addresses~~ address of the applicant; and (i) if the applicant is a ~~copartnership or association~~ partnership, firm, or association, the name and address of ~~every~~ each partner or member, and; (ii) if the applicant is a corporation or limited liability company, the name and address of each senior officer and, director, member, registered agent, and principal; or (iii) if the applicant is a business trust, the name and address of each trustee and beneficiary; (2) the county or municipality, with street and number, if any, where the business is to be conducted; (3) all other information as may be required by the Commission.

~~And~~ The application shall be accompanied by payment of the sum of \$500 as a fee for investigating the application.

§ 6.1-256.1. Issuance of consumer finance license.

A. The Commission shall issue and deliver to the applicant a license to make loans in accordance with the provisions of this chapter at the location in this Commonwealth specified in the application if it finds:

1. That the financial responsibility, experience, character and general fitness of the applicant, ~~or of the members if the applicant be a copartnership or association, or of the officers and directors if the applicant be a corporation, and its members, senior officers, directors, and principals~~ are such as calculated to command the confidence of the public and to warrant belief that this business will be operated lawfully, honestly, fairly and efficiently within the purpose of this chapter;

2. That the applicant has available, for the operation of the business at the specified location, liquid assets of at least \$50,000 if the specified location is in a city or county with a population of more than 20,000, or of at least \$25,000 if the location is not in a city or county with a population of more than 20,000; and

3. That all of the prerequisites to obtaining the license prescribed by § 6.1-254 have been complied with, the foregoing facts being conditions precedent to the issuance of a license under this chapter.

B. Notwithstanding the provisions of subsection A of this section, if the applicant has an existing license at another location in the Commonwealth, the Commission shall issue and deliver to the applicant a license to make loans in accordance with the provisions of this chapter at the location specified in the application if it finds:

1. That the general fitness of the licensee is such as calculated to command the confidence of the public and to warrant belief that this business will be operated lawfully, honestly, fairly and efficiently within the purpose of this chapter; and

2. That all of the prerequisites to obtaining the license prescribed by § 6.1-254 have been complied with, the foregoing facts being conditions precedent to the issuance of a license under this chapter.

*C. After receiving approval under subsection B or providing notice of relocation under § 6.1-269.1, the licensee shall give written notice to the Commissioner within 10 days of the commencement of business at the additional location or relocated place of business.*

*D. Every licensee shall within 10 days notify the Commissioner, in writing, of (i) the closing of any business location, and (ii) the name, address and position of each new senior officer, member, partner, or director, and provide such other information with respect to any such change as the Commissioner may reasonably require.*

*§ 6.1-258.1. Acquisition of control; application.*

*A. Except as provided in this section, no person shall acquire, directly or indirectly, 25 percent or more of the voting shares of a corporation or 25 percent or more of the ownership of any other person licensed to conduct business under this chapter unless such person first:*

*1. Files an application with the Commission in such form as the Commissioner may prescribe from time to time;*

*2. Delivers such other information to the Commissioner as the Commissioner may require concerning the financial responsibility, background, experience, and activities of the applicant, its directors, senior officers, principals and members, and of any proposed new directors, senior officers, principals or members of the licensee; and*

*3. Pays such application fee as the Commission may prescribe.*

*B. Upon the filing and investigation of an application, the Commission shall permit the applicant to acquire the interest in the licensee if it finds that the applicant, its members if applicable, its directors, senior officers and principals, and any proposed new directors, members, senior officers and principals have the financial responsibility, character, reputation, experience and general fitness to warrant belief that the business will be operated efficiently and fairly, in the public interest, and in accordance with law. The Commission shall grant or deny the application within 60 days from the date a completed application accompanied by the required fee is filed unless the period is extended by order of the Commissioner reciting the reasons for the extension. If the application is denied, the Commission shall notify the applicant of the denial and the reasons for the denial.*

*C. The provisions of this section shall not apply to (i) the acquisition of an interest in a licensee, directly or indirectly, including an acquisition by merger or consolidation, by or with a person licensed by this chapter, (ii) the acquisition of an interest in a licensee, directly or indirectly, including an acquisition by merger or consolidation, by or with a person affiliated through common ownership with the licensee, or (iii) the acquisition of an interest in a licensee by a person by bequest, descent, survivorship or operation of law. The person acquiring an interest in a licensee in a transaction that is exempt from filing an application by this subsection shall send written notice to the Commissioner of such acquisition within 30 days of its closing.*